

MALCOLM P. LAVERGNE (Nevada Bar No. 10121)
mlavergne@lavernelaw.com
 JONATHAN B. GOLDSMITH (Nevada Bar No. 11805)
jgoldsmith@lavernelaw.com
 THE LAVERGNE LAW GROUP
 320 East Charleston Boulevard, Suite 203
 Las Vegas, Nevada 89104
 702.448.7981 / 702.966.3117 (Facsimile)
 Attorneys for Defendant Floyd Mayweather, Sr.

UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA

EMMANUEL PACQUIAO,)	Case No. 09-CV-02448-LRH-RJJ
)	
Plaintiff,)	DEFENDANT FLOYD
)	MAYWEATHER, SR.'s,
vs.)	ANSWER TO PLAINTIFF'S
)	FIRST AMENDED
FLOYD MAYWEATHER, JR., FLOYD)	COMPLAINT
MAYWEATHER, SR., ROGER)	
MAYWEATHER, MAYWEATHER)	
PROMOTIONS LLC, RICHARD SCHAEFER,)	
and OSCAR DE LA HOYA,)	
)	
Defendants.)	

COMES NOW, Defendant Floyd Mayweather, Sr. ("Defendant" or "Mayweather, Sr."), by and through his attorneys MALCOLM P. LAVERGNE, ESQ., and JONATHAN B. GOLDSMITH, ESQ., of THE LAVERGNE LAW GROUP, and for his Answer to Plaintiff's First Amended Complaint, alleges the following in response to the numbered paragraphs and sentences contained therein:

1. Defendant denies each and every allegation contained in this paragraph.

///

///

///

1 2. Defendant denies the allegations contained in the first sentence of this
2 paragraph. To the extent that the second sentence alleges “[b]lessed with an unmatched
3 combination of speed, power, skill, and guile, and fueled by an indefatigable work ethic ...”,
4 Defendant denies the allegations contained therein. As to the remaining allegations
5 contained in this paragraph, Defendant lacks knowledge and information sufficient to form a
6 belief as to the allegations.

7 3. Defendant denies each and every allegation contained in this paragraph.

8 4. Defendant denies each and every allegation contained in this paragraph.

9 5. Defendant denies each and every allegation contained in this paragraph.

10 6. Defendant denies each and every allegation contained in this paragraph.

11 7. Defendant denies each and every allegation contained in this paragraph.

12 8. Defendant denies each and every allegation contained in this paragraph.

13 9. Defendant denies each and every allegation contained in this paragraph.

14 10. Defendant lacks knowledge and information sufficient to form a belief as to
15 the allegations contained in this paragraph.

16 11. Defendant lacks knowledge and information sufficient to form a belief as to
17 the allegations contained in this paragraph.

18 12. Defendant admits that he is an individual, as alleged in the first sentence of
19 this paragraph. As to the remaining allegations in the first sentence of this paragraph,
20 Defendant denies the allegations contained therein. Defendant admits the allegations
21 contained in the second sentence of this paragraph solely for jurisdictional purposes.

22 13. Defendant lacks knowledge and information sufficient to form a belief as to
23 the allegations contained in this paragraph.

24 14. Defendant lacks knowledge and information sufficient to form a belief as to
25 the allegations contained in this paragraph.

1 15. Defendant lacks knowledge and information sufficient to form a belief as to
2 the allegations contained in this paragraph.

3 16. Defendant lacks knowledge and information sufficient to form a belief as to
4 the allegations contained in this paragraph.

5 17. Defendant lacks knowledge and information sufficient to form a belief as to
6 the allegations contained in this paragraph.

7 18. Defendant lacks knowledge and information sufficient to form a belief as to
8 the allegations contained in this paragraph.

9 19. Defendant denies the allegations contained in the first sentence of this
10 paragraph. As to the remaining allegations (including bullet points) contained in this
11 paragraph, Defendant lacks knowledge and information sufficient to form a belief as to the
12 allegations.

13 20. Defendant denies each and every allegation contained in this paragraph.

14 21. Defendant denies the allegations contained in the first sentence of this
15 paragraph. As to the remaining allegations contained in this paragraph, Defendant lacks
16 knowledge and information sufficient to form a belief as to the allegations contained therein.

17 22. To the extent that the first sentence in this paragraph alleges “Pacquiao is an
18 icon in his native Philippines ...”, Defendant denies the allegations. As to the remaining
19 allegations contained in this paragraph, Defendant lacks knowledge and information
20 sufficient to form a belief as to the allegations contained therein.

21 23. Defendant denies the allegations contained in the first sentence of this
22 paragraph. As to the remaining allegations contained in this paragraph, Defendant lacks
23 knowledge and information sufficient to form a belief as to the allegations contained therein.

24 24. Defendant lacks knowledge and information sufficient to form a belief as to
25 the allegations contained in this paragraph.

1 25. Defendant lacks knowledge and information sufficient to form a belief as to
2 the allegations (including bullet points) contained in this paragraph.

3 26. Defendant denies each and every allegation contained in this paragraph.

4 27. Defendant denies each and every allegation contained in this paragraph.

5 28. Defendant admits to the allegations in the first and second sentences contained
6 in this paragraph. Defendant denies the allegations contained in the third sentence contained
7 in this paragraph. Defendants that he gave an interview with *The Grand Rapids Press*, as
8 alleged in the fourth sentence of this paragraph. As to the remaining allegations contained in
9 the fourth sentence of this paragraph, Defendant lacks knowledge and information sufficient
10 to form a belief as to the allegations contained therein. Defendant denies the allegations
11 contained in the fifth sentence of this paragraph. Defendant lacks knowledge and
12 information sufficient to form a belief as to the allegations contained the sixth sentence of
13 this paragraph.

14 29. Defendant admits the first and second sentences contained in this paragraph.
15 Defendant denies the allegations contained in the third sentence of this paragraph.

16 30. Defendant lacks knowledge and information sufficient to form a belief as to
17 the allegations contained in this paragraph.

18 31. Defendant admits that he gave an interview to Martin Rogers, as alleged in
19 this paragraph. As to the remaining allegations in this paragraph, Defendant denies the
20 allegations contained therein.

21 32. Defendant admits to the allegations contained in the first sentence of this
22 paragraph. Defendant denies the allegations contained in the second and third sentences of
23 this paragraph.

24 33. Defendant lacks knowledge and information sufficient to form a belief as to
25 the allegations contained in this paragraph.

1 34. Defendant lacks knowledge and information sufficient to form a belief as to
2 the allegations contained in this paragraph.

3 35. Defendant lacks knowledge and information sufficient to form a belief as to
4 the allegations contained in this paragraph.

5 36. Defendant lacks knowledge and information sufficient to form a belief as to
6 the allegations contained in this paragraph.

7 37. Defendant lacks knowledge and information sufficient to form a belief as to
8 the allegations contained in this paragraph.

9 38. Defendant lacks knowledge and information sufficient to form a belief as to
10 the allegations contained in this paragraph.

11 39. To the extent that this paragraph is referencing Defendant Floyd Mayweather,
12 Sr., Defendant Mayweather, Sr. denies each and every allegation contained within the
13 paragraph. To the extent that this paragraph is referencing defendant Floyd Mayweather, Jr.,
14 Defendant Mayweather, Sr. lacks knowledge and information sufficient to form a belief as to
15 the allegations contained in this paragraph.

16 40. Defendant lacks knowledge and information sufficient to form a belief as to
17 the allegations contained in this paragraph.

18 41. Defendant lacks knowledge and information sufficient to form a belief as to
19 the allegations contained in this paragraph.

20 42. Defendant lacks knowledge and information sufficient to form a belief as to
21 the allegations contained in this paragraph.

22 43. Defendant denies each and every allegation contained in this paragraph.

23 44. Defendant denies each and every allegation contained in this paragraph.

24 45. Defendant denies each and every allegation contained in this paragraph.

25 46. Defendant denies each and every allegation contained in this paragraph.

1 47. Defendant denies each and every allegation contained in this paragraph.

2 48. Defendant repeats and realleges each and allegation contained in paragraphs
3 “1” through “47” as though fully set forth herein. Defendant further alleges:

4 49. Defendant denies each and every allegation contained in this paragraph.

5 50. Defendant denies each and every allegation contained in this paragraph.

6 51. Defendant denies each and every allegation contained in this paragraph.

7 52. Defendant denies each and every allegation contained in this paragraph.

8 53. Defendant denies each and every allegation contained in this paragraph.

9 FIRST AFFIRMATIVE DEFENSE

10 Plaintiff’s allegations in the Complaint fail to state a claim upon which relief may be
11 granted.

12 SECOND AFFIRMATIVE DEFENSE

13 Plaintiff failed to mitigate his damages alleged in the First Amended Complaint.

14 THIRD AFFIRMATIVE DEFENSE

15 Defendants have been caused to employ counsel to defend this action and, therefore,
16 are entitled to reasonable attorney’s fees.

17 FOURTH AFFIRMATIVE DEFENSE

18 Defendant affirmatively asserts that all statements and comments by allegedly made by
19 Defendant about Plaintiff were true and, thus, cannot be the basis for a defamation action.

20 FIFTH AFFIRMATIVE DEFENSE

21 All statements and comments allegedly made by Defendant about Plaintiff were made
22 by Defendant with good motive and were fair comments made as a citizen exercising his
23 right of free speech, discussing matters of public importance, as a concerned citizen of the
24 boxing community.

25 ///

1 SIXTH AFFIRMATIVE DEFENSE

2 The statements allegedly made by Defendant about Plaintiff were constitutionally
3 privileged statements of opinion that are protected from claims of defamation, slander or
4 libel.

5 SEVENTH AFFIRMATIVE DEFENSE

6 The statements allegedly made by Defendant about Plaintiff were made in good faith in
7 furtherance of the right to petition and, thus, is immune from liability pursuant to Nevada
8 Revised Statute § 41.650.

9 EIGHTH AFFIRMATIVE DEFENSE

10 Plaintiff, a public figure, cannot prove actual malice regarding any statements allegedly
11 made by Defendant about Plaintiff and, thus, his claims fail as a matter of law.

12 NINTH AFFIRMATIVE DEFENSE

13 Plaintiff's demand for punitive damages – in both substance and procedure – is
14 unconstitutional pursuant to both the State of Nevada and United States Constitutions.

15 TENTH AFFIRMATIVE DEFENSE

16 All possible affirmative defenses may not have been alleged herein insofar as sufficient
17 facts were not available after reasonable inquiry upon the filing of Plaintiff's Complaint and,
18 therefore, Defendants reserve the right to amend this answer to allege additional affirmative
19 defenses if a subsequent discovery so warrants.

20 WHEREFORE, Defendant prays for a judgment against Plaintiff as follows:

21 1. That Plaintiff takes nothing by way of his First Amended Complaint on file
22 herein;

23 2. That Defendant be awarded reasonable attorney's fees and costs for the
24 defense of this matter; and

25 / / /

1 3. For any such further and additional relief as the Court may deem just and
2 proper.

3 Dated this 17th day of May, 2010.

4
5 /s/ Malcolm P. LaVergne
6 MALCOLM P. LAVERGNE
7 Nevada Bar No. 10121
8 JONATHAN B. GOLDSMITH
9 Nevada Bar No. 11805
THE LAVERGNE LAW GROUP
320 East Charleston Boulevard,
Las Vegas, Nevada 89104
702.448.7981 / 702.966.3117 (Facsimile)
Attorneys for Defendant Floyd Mayweather, Sr.

10 **DEMAND FOR JURY TRIAL**

11 PLEASE TAKE NOTICE THAT, pursuant to Fed. R. Civ. P. 38, Defendant Floyd
12 Mayweather, Sr., demands a jury trial on all triable issues in this action.

13 Dated this 17th day of May, 2010.

14
15 /s/ Malcolm P. LaVergne
16 MALCOLM P. LAVERGNE
17 Nevada Bar No. 10121
18 JONATHAN B. GOLDSMITH
19 Nevada Bar No. 11805
THE LAVERGNE LAW GROUP
320 East Charleston Boulevard,
Las Vegas, Nevada 89104
702.448.7981 / 702.966.3117 (Facsimile)
Attorneys for Defendant Floyd Mayweather, Sr.

20 ///

21 ///

22 ///

CERTIFICATE OF SERVICE

Malcolm P. LaVergne, Esq., attorney for Defendant Floyd Mayweather, Sr., hereby certifies that on 17th day of May, 2010, I served a copy of the Answer to Plaintiff's First Amended Complaint and Demand for Jury Trial through the Court's CM/ECF electronic filing system to the following:

Daniel Petrocelli (dpetrocelli@omm.com)
David Marroso (dmarroso@omm.com)
Franchesca V. Van Buren (fvanburen@lrlaw.com)
Eric D. Hone (ehone@lrlaw.com)
Jeffrey Spitz (jspitz@ggfirm.com)
Judd Burnstein (jburnstein@burlaw.com)
Todd E. Kennedy (tkennedy@lionelsawyer.com)
Bertram Fields (bfields@ggfirm.com)

/s/ Malcolm P. LaVergne
Malcolm P. LaVergne, Esq.